

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

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Date:

August 17, 2001

[REDACTED]:

This responds to your recent letter to the Internal Revenue Service regarding section 457 of the Internal Revenue Code ("the Code"). Your letter requests information concerning the provisions in the recently enacted Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), Pub. L. No. 107-16, that will permit certain distributions from section 457 deferred compensation plans to be rolled-over into an IRA, effective next year.

We do not have sufficient information regarding your employer (i.e., whether it is a governmental entity or a tax-exempt organization) or the section 457 plan it sponsors, including a copy of the plan, to definitively discuss your case and options under that plan. However, we can provide some general information that may be helpful to you, including the enclosed copy of the portion of the Congressional Conference Committee report discussing the current rollover rules and the new section 457 rollover provisions.

As the enclosed Congressional report notes, section 457 plan distributions made after December 31, 2001 that qualify as "eligible rollover distributions" may be rolled over into an IRA, or, subject to certain restrictions, to other plans such as section 401(k) or 403(b) plans. However, these revisions, including the one authorizing certain rollovers from section 457 plans to IRAs, do not become effective until 2002, and they generally apply only to section 457 plans sponsored by state and local governmental entities, not to plans sponsored by tax-exempt employers. Thus it does not appear that these new rollover provisions can be applied retroactively to section 457 plan distributions or other circumstances occurring in past years such as 2000.

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We have also enclosed a portion of IRS Publication 505, "Tax Withholding and Estimated Tax" which discusses the rollover and income tax withholding rules that currently apply to qualified plans, tax sheltered annuities described in section 403(b) of the Code, and, after 2001, eligible section 457(b) plans of state and local governmental entities. The "Eligible Rollover Distributions" section notes that an eligible rollover distribution is any distribution from a qualified pension plan or tax-sheltered annuity that is not either 1) a minimum required distribution or 2) one of a series of substantially equal periodic payments made over the participant's life expectancy or a specified period of 10 or more years.

We trust this information will be helpful to you. If you need further information, please contact John Tolleris of my staff at (202) 622-6060.

Sincerely,

Robert D. Patchell
Acting Branch Chief, Qualified Plans Branch 2
Office of Associate Chief Counsel
(Tax Exempt and Government Entities)